

CHILD PROTECTIVE SERVICES

22VAC40-705-60. Authorities of local departments.

When responding to valid complaints or reports local departments have the following authorities:

1. To talk to any child suspected of being abused and/or neglected, or child's siblings, without the consent of and outside the presence of the parent or other caretaker, as set forth by §63.2-1518 of the Code of Virginia.
2. To take or arrange for photographs and x-rays of a child who is the subject of a complaint without the consent of and outside the presence of the parent or other caretaker, as set forth in §63.2-1520 of the Code of Virginia.
3. To take a child into custody on an emergency removal for up to 72-96 hours under such circumstances as set forth in §63.2-1517 of the Code of Virginia.
 - a. A child protective services (CPS) worker planning to take a child into 72-96-hour emergency custody shall first consult with a supervisor. However, this requirement shall not delay action on the CPS worker's part if a supervisor cannot be contacted and the situation requires immediate action.
 - b. When circumstances warrant that a child be taken into emergency custody during a family assessment, the report shall be reassigned immediately to an investigation.
 - c. Any person who takes a child into custody pursuant to §63.2-1517 of the Code of Virginia shall be immune from any civil or criminal liability in connection therewith, unless it is proven that such person acted in bad faith or with malicious intent.

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d. The local department shall have the authority to have a complete medical examination made of the child including a written medical report and, when appropriate, photographs and x-rays pursuant to §63.2-1520 of the Code of Virginia.

e. When a child in 72-96-hour custody is in need of immediate medical or surgical treatment, the local director of social services or his designee(s) may consent to such treatment when the parent does not provide consent and a court order is not immediately obtainable.

f. When a child is not in the local department's custody, the local department cannot consent to medical or surgical treatment of the child.

g. When a child is removed, every effort must be made to obtain an emergency removal order within 4 hours. Reasons for not doing so shall be stated in the petition for an emergency removal order.

h. Every effort shall be made to provide notice of the removal in person to the parent or guardian as soon as practicable.

22VAC40-705-130. Report family assessment or investigation conclusions.

A. Pursuant to §63.2-1514 of the Code of Virginia, the local department shall report all unfounded case dispositions to the child abuse and neglect information system when disposition is made.

1. The department shall retain unfounded complaints or reports in the child abuse and neglect information system to provide local departments with information regarding prior investigations.

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2. This record shall be kept separate from the Central Registry and accessible only to the department and to local departments.

3. The record of the unfounded case ~~or family assessment~~ shall be purged one year after the date of the complaint or report if there are no subsequent founded or unfounded complaints and/or reports regarding the individual against whom allegations of abuse and/or neglect were made or regarding the same child in that one year.

4. The record of the family assessment shall be purged three years after the date of the complaint or report if there are no subsequent complaints and/or reports regarding the individual against whom allegations of abuse and/or neglect were made or regarding the same child in those three years.

4. 5. If the individual against whom allegations of abuse and/or neglect were made or if the same child is involved in subsequent complaints and/or reports, the information from all complaints and/or reports shall be maintained until the last purge date has been reached.

5. 6. The individual against whom unfounded allegations of abuse and/or neglect were made may request in writing that the local department retain the record for an additional period of up to two years.

6. 7. The individual against whom allegations of abuse and/or neglect were made may request in writing that both the local department and the department shall immediately purge the record after a court rules that the report was made in bad faith or with malicious intent pursuant to §63.2-1514 of the Code of Virginia.

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B. The local department shall report all founded case dispositions to the child abuse and neglect information system for inclusion in the Central Registry pursuant to subdivision 5 of §63.2-1505 of the Code of Virginia and 22VAC40-700-30. Identifying information about the abuser and/or neglector and the victim child or children reported include demographic information, type of abuse or neglect, and date of the complaint. The identifying information shall be retained based on the determined level of severity of the abuse or neglect pursuant to the regulation dealing with retention in the Central Registry, 22VAC40-700-30.

I certify that this regulation is full, true, and correctly dated.

Debra Price Andrews, Chair
State Board of Social Services
October 22, 2003